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Attorneys for Defendant State of Arizona

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 Meghan Moses,

11 Plaintiff,

12 v.

13 The State of Arizona, et al.,

14 Defendants.

Case No:

**NOTICE OF REMOVAL UNDER 28
U.S.C. § 1441(A)**

15
16 Defendant State of Arizona through undersigned counsel, pursuant to 28 U.S.C.
17 § 1441(a), hereby removes to this Court the state court matter of *Meghan Moses v. The*
18 *State of Arizona, et al.*, CV2013-003150, currently pending in the Superior Court of
19 the State of Arizona, Maricopa County, before the Honorable Richard J. Gama.

20 Plaintiff filed a Complaint in the Superior Court on March 29, 2013, alleging
21 claims under 42 U.S.C. § 1983. Defendant State of Arizona was served at the
22 Attorney General's Office on April 1, 2013. Defendants Hickman's Egg Ranch, by
23 its statutory Agent, and Arizona Department of Corrections, a state agency, were
24 served on April 1, 2013. To the best of undersigned's knowledge, no other
25 Defendants have been

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1 ///

2 served¹. Undersigned counsel also represents that he spoke with the attorney for
3 Hickman's Egg Ranch, Adam S. Polson, Esq., and that Defendant Hickman's Egg
4 Ranch consents to this removal.

5 Section 1441(a), 28 U.S.C. provides that:

6
7 Except as otherwise expressly provided by Act of Congress,
8 any civil action brought in a State court of which the district
9 courts of the United States have original jurisdiction, may be
10 removed by the defendant or the defendants, to the district
11 court of the United States for the district and division
12 embracing the place where such action is pending.

13 In particular, 28 U.S.C. §1331 provides that the district courts have original
14 jurisdiction of all civil actions arising under the Constitution and laws of the United
15 States. *See also City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 163 (1997).

16 Plaintiff's Complaint is specifically brought pursuant to federal statute—it
17 alleges violations of 42 U.S.C. § 1983 and the U.S. Constitution. (Exhibit C,
18 Complaint at Attachment #1.) Removal of an action from state to federal court is
19 permitted when the federal court has original jurisdiction over the action because it is
20 founded on a claim or right arising under federal law. *City of Chicago*, 522 U.S. at
21 163. Therefore, this Court has jurisdiction to remove this case because it involves
22 claims over which this Court would have had jurisdiction in the first instance.

23 Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over all other
24 claims in this action because they form part of the same case or controversy as the
25 federal question claims.

26 ¹ The Arizona Department of Corrections ("DOC") was also purportedly served on
April 1, 2013. The DOC is not a jural entity. To the extent that DOC's consent to this
removal is necessary, the undersigned also represents DOC and it consents to this
removal.

1 In compliance with 28 U.S.C. § 1446(a), attached as Exhibit B is a copy of
 2 Plaintiff's Civil Cover Sheet and Supplemental Cover Sheet, which contains a short,
 3 plain statement of the grounds for removal. In compliance with 28 U.S.C. § 1446(a)
 4 and L.R. Civ. P. 3.6(b), the Complaint, certificate of arbitration, Affidavits of Service
 5 and Summonses, are attached as Exhibit C and a verification that the attached
 6 documents are true and complete copies is attached as Exhibit A. The Defendants
 7 certify that this Notice of Removal has been filed with the Clerk of the Superior Court
 8 in Maricopa County, Arizona, where the action was commenced.

9 RESPECTFULLY SUBMITTED on this 16th day of April, 2013.

10 THOMAS C. HORNE
 11 Attorney General

12 /s/Michael E. Gottfried
 13 Michael E. Gottfried
 14 Assistant Attorney General
 Attorney for Defendant State of
 Arizona

15 CERTIFICATE OF SERVICE

16 I hereby certify that on April 16, 2013, I electronically transmitted the attached
 17 document to the Clerk of the Court using the ECF System.

18 I hereby further certify that on the same date, I served the attached document
 19 and Notice of Electronic Filing by mail on the following:

20
 21 David W. Dow, Esq.
 22 **THE LAW OFFICES OF DAVID W. DOW**
 3104 E. Camelback Road #281
 23 Phoenix, AZ 85016
 Attorney for Plaintiff

24 Adams S. Polson, Esq.
 25 Lewis Brisbois Bisgaard & Smith
 2929 N. Central Ave., #1700
 26 Phoenix, AZ 85012
 Attorneys for Defendant Hickman's Egg Farm

/s/G. J. Jokschr
Legal Secretary
LMS13-0085;RM#G201220835
#3261250